

Generally, retail businesses are required to collect and remit sales and use taxes on qualifying merchandise or services. While most States require consumers to remit use taxes for purchases from out-of-State vendors, compliance is extraordinarily low as States cannot legally mandate the collection and remittance of taxes by a business unless the business has a physical presence in the State.

This restriction, which was articulated in the 1992 Supreme Court case, *Quill Corp. v. North Dakota*, went so far as to invite Congress to address the issue. It is time we do that.

In an era of unprecedented e-commerce, Congress's failure so far to address this problem unfairly deprives State treasuries of much-needed tax revenue because Internet-based retailers are not required to charge sales tax to their out-of-State customers. As you might imagine, a large number of State governments have asked for this legislation to fix that problem, including the current Republican Governor of Michigan. In fact, Michigan governors of both political parties have asked Congress to pass this important piece of legislation, and I agree with them.

The Governor of Michigan says that passing this law will help the State of Michigan collect more than \$800 million over the next 2 years. Those are revenues that the State desperately needs.

I also think it's important to keep in mind some of the things this bill doesn't do. This bill does not authorize the States to create State-level financial transaction taxes, as some have erroneously argued. In fact, the Marketplace Fairness Act does not create, endorse, or recommend new Federal, State or local taxes of any kind.

This bill gives States the option of pursuing collection authority by simplifying their tax structure, but States can also choose to do nothing differently than they do today. The Marketplace Fairness Act is about more equitably collecting taxes that are already owed.

Over the past decade, many States have worked together to develop a framework to harmonize sales and use tax collection and remittance, known as the Streamlined Sales and Use Tax Agreement. Michigan is 1 of the 24 States that currently participate in that agreement. But, in order for the agreement to be legally enforceable, Congress would need to enact legislation granting States the authority to require out-of-State merchants to remit sales and use taxes. This bill would do that.

I support this effort to simplify and improve sales tax collection, and I am a cosponsor of this bill. This bill will level the playing field between on-line retailers and those with "brick and mortar" stores, ensuring that we do not give an unfair tax advantage to one type of retailer over another. This is about ensuring that our States have the ability to collect the taxes they

need to fund schools, and law enforcement, and other key priorities.

I will vote for this bill, and I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Illinois

#### UNANIMOUS CONSENT AGREEMENT—S. 601

Mr. DURBIN. Mr. President, I ask unanimous consent that the cloture motion with respect to the motion to proceed to Calendar No. 44, S. 601, be withdrawn; further, that at 2:15 p.m. on Tuesday, May 7, the motion to proceed to S. 601 be agreed to and the Senate begin consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MARKETPLACE FAIRNESS ACT

Mr. DURBIN. Mr. President, in the closing 10 minutes, the four proponents who will speak will be first Senator HEITKAMP of North Dakota, followed by Senator ALEXANDER of Tennessee, myself, and then Senator ENZI of Wyoming, who has for 11 years been fighting for this vote. I want him to have the last word.

The PRESIDING OFFICER. The Senator from North Dakota.

Ms. HEITKAMP. Mr. President, this is a day that has been 20 years in the making. You have heard argument after argument here about how this bill has been rushed, how it is not ready, how we have not yet had enough debate or deliberation. I tell you on behalf of the small business owners in my State who have told me it is about darn time we do something, I stand today and congratulate this body for taking on this issue and taking a system that has been grossly unjust and incredibly unfair to Main Street businesses in our country and in our State and said, yes, the Senate will not stand back and wait any longer before we give you marketplace fairness.

This bill could not be and could not have a better name than Marketplace Fairness. I got involved in this issue as a very young person—I like to say that because it was 20 years ago—litigating a case before the U.S. Supreme Court. I was moved to take that case to the Court by a woman who approached me and said: Look, I am trying to survive. I am trying to participate as a good businessperson in North Dakota, trying to support my community, trying to do everything right, collect my sales tax, but I am getting killed in the marketplace, because people are sending catalogs; people come into my store; they will look at my products. Then they order this stuff through a mail order business. Please help me.

Those pleas have for the last 20 years gone unheard by this body and by the House of Representatives. But today we have a chance. We have a chance to say to all of those businesspeople throughout our country who have been unfairly treated by a tax system that

does not recognize today's modern-day method of marketing, this modern-day way we do business and commerce in our country has not been recognized. They continue to struggle, continue to try. I congratulate the Senate. I congratulate all of the other Senators who have pursued this with such vigor and with such hope. I say today is the day that we say yes to America's small businesses.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask I be notified when I have consumed 2½ minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mr. ALEXANDER. Mr. President, I congratulate the Senator from North Dakota on 20 years of work on this issue, Senator ENZI for 11 years of tireless work here, and Senator DURBIN for his effective advocacy. I will make four quick points.

The Senator from Texas said reinvigorating the economy should be the No. 1 priority for Federal and State leaders. That is precisely the first sentence of the column of economist Art Laffer in the *Wall Street Journal* where he says:

States can cut their income tax rates if web vendors collect the sales taxes that are legally due.

In other words, if you want economic growth, vote for the Marketplace Fairness Act.

No. 2, the idea that this is too complex to do—more than half of the sales now made on the Internet are by retailers that collect the tax when it is sold. It is a tax that is already owed, so how can it be too complex for anybody else to do? It is already being done. So that is specious.

No. 3, it has been said this should have gone to committee. It did. It just never came out of committee because the chairman, and I say that with great respect, did not want it to. It should have had amendments. Yes, it should have had amendments. Why didn't it have amendments? Because the opponents to the bill resorted to objecting to every single amendment.

Finally, I say this to my Republican colleagues: This is a conservative bill. I just mentioned Mr. Laffer. I read this earlier, but I want to read it again. The comments of the chairman of the American Conservative Union, Al Cardenas:

Dear Senators, you continue work next week on the Marketplace Fairness Act. I would like to call to your attention what conservatives are saying about the issue. They recognize, as I do, it is not the role of government to pick winners and losers in the marketplace by requiring brick and mortar stores to charge a sales tax while exempting Internet sales.

He then lists the comments of Charles Krauthammer favoring the idea, Representative PAUL RYAN favoring the idea, and, of course, as we know, William F. Buckley did before he